



RESOLUTION NO. U-11233

1 A RESOLUTION related to Tacoma Water; authorizing execution of the Water
2 Supply Forum Memorandum of Agreement for 2021-2025.

3 WHEREAS the City of Tacoma, Department of Public Utilities, Water
4 Division (d.b.a. "Tacoma Water") requests authorization to execute the Water
5 Supply Forum Memorandum of Agreement for 2021-2025 ("Agreement"), which
6 includes provisions authorizing Tacoma Water to act for the Forum as financial
7 agent and contracting party, and

8 WHEREAS the Forum consists of water utilities of Tacoma, Seattle,
9 Everett, and King County, meeting as an informal association to coordinate and
10 collaborate on current and future water supply and water resources items and
11 projects of mutual interest and benefit, and

12 WHEREAS , the Forum funds various projects and action items to further
13 the parties' interests related to present and future drinking water issues such as
14 water supply planning, resiliency including seismic, water quality conservation,
15 education and outreach, and

16 WHEREAS the Forum member parties previously entered into funding
17 agreements to cooperatively pay for various action items from 2004 through
18 2020, and

19 WHEREAS since the formation of the Forum, Tacoma Water has served
20 as financial agent for the group. Pursuant to resolution U-10825, the Board
21 previously authorized Tacoma Water to serve the Forum in this capacity
22 including by collecting agreed upon cost allocations and managing contracting
23 and accounts payable activities.
24
25
26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WHEREAS the current funding agreement approved by the Board pursuant to resolution U-10825 expired on December 31, 2020, and, in order to continue to engage in projects and actions and to fund work plan activities consistent with their mutual interests and to update their operating procedures, the parties desire to enter into a new Memorandum of Agreement through 2025, which includes provisions for Tacoma Water to continue to serve as the Forum's financial agent as further described in the backup materials on file with the Clerk of the Board, and

WHEREAS Tacoma Water's annual dues to the Forum are estimated at \$33,000 per year beginning in 2022, which have been and will continue to be included in the biennial budget approved by the Board, and

WHEREAS it is in the best interest of Tacoma Water and its customers to authorize Tacoma Water to execute the Memorandum of Agreement; Now, therefore,

BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

Sec. 1. That Tacoma Water is authorized to execute the Water Supply Forum Memorandum of Agreement ("Agreement") for 2021-2025 substantially in the form on file with the Clerk and as approved by the City Attorney.

Sec. 2 That Tacoma Water is authorized to continue as financial agent and contracting party under the Agreement.

Sec. 3. That Tacoma Water's contributions under the Agreement, estimated at \$33,000/per year beginning in 2022, are approved.



Approved as to form:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

/s/

Chief Deputy City Attorney

Clerk

Chair

Secretary

Adopted



Board Action Memorandum

TO: Jackie Flowers, Director of Utilities
COPY: Charleen Jacobs, Director and Board Offices
FROM: Scott Dewhirst
MEETING DATE: January 13, 2021
DATE: December 29, 2020

SUMMARY:

Tacoma Water is seeking Board approval to enter into an updated agreement to continue its participation on the Water Supply Forum "Forum" working collaboratively with our regional partners on items of collective interest and benefit to our customers.

In addition, Tacoma Water seeks Board approval to continue serving as the financial agent for the Forum and to approve a participating contribution in the form of Annual dues during the term of the Agreement. We anticipate these expenditures to be under the Director's authority, but are happy to provide financial reports of these expenditures, if desired. The annual dues have been and will continue to be included in the biennial budget approved by the Board. The role of financial agent has been a responsibility Tacoma Water since the formation of the Forum and this would renew our commitment from 2021-2025.

BACKGROUND:

The Forum is an informal association of regional drinking water suppliers, purveyors and association leaders across King, Snohomish, and Pierce counties established in 1999 to coordinate and collaborate on current and future water supply and water resource items and projects of mutual interest and benefit. Since the formation of the Forum, Tacoma Water has served as financial agent for the group. Tacoma Water, under the authority of resolution, **U-10825**, as well as agreements with individual members of the Forum, has collected agreed upon cost allocations, held funds, managed contracts, and paid bills on behalf of the Forum. The current agreement will expire December 31, 2020.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED?

Yes, Tacoma Water's annual dues to be a member of Water Supply Forum are included, which is estimated to be \$33,300 per year from 2022-2025 (2021 dues are waived).

ATTACHMENTS:

- Memorandum requesting Board Approval, providing more details on our background with the Water Supply Forum, along with the primary elements of the work plan for the coming years.
- The Contract/ Agreement for 2021-2025



Board Action Memorandum

CONTACT:

Scott Dewhirst, Water Superintendent

SDewhirst@cityoftacoma.org

Office: 253-502-8245

Cell: 253-278-0527



Date: December 17, 2020
To: Jackie Flowers, Director of Utilities
From: Scott Dewhirst, Water Superintendent
Subject: Water Supply Forum Request

Tacoma Water seeks Board approval to continue to participate on the Water Supply Forum “Forum” by renewing the agreement establishing the Forum and serve as the financial agent for the Forum, providing contributions to support Forum activities and authorize the Director of Utilities authority to amend the Agreement.

Background

Tacoma Water was a founding member of the Forum in 1998 and has been an active participant in the organization since that time. The Forum membership includes the water utilities of Tacoma, Seattle, Everett, and King County.

The Forum completed a major analysis of public water supply demand and supply options in 2009. This document, entitled “2009 Regional Water Supply Outlook Report,” (Outlook) reviewed water supply in King, Snohomish and Pierce Counties over the next 50 years. On a macro level, it sought to heighten awareness of the impact growth would have on demands for future water supply in the region and to begin to identify where such water supplies would need to come from. In addition, the Outlook included the first look at the implications for climate change on regional municipal water supply and demand.

This document serves to guide and coordinate the actions of water utilities within the region as well as to stimulate debates as to how adequate water supplies to meet the needs of anticipated growth should be developed.

Since the formation of the Forum, Tacoma Water has served as financial agent for the group. Tacoma Water, under the authority of resolution, **U-10825**, as well as agreements with individual members of the Forum, has collected agreed upon cost allocations, held funds, managed contracts, and paid bills on behalf of the Forum. The current agreement will expire December 31, 2020.

Tacoma Water is seeking Board approval to enter into an updated agreement to continue its participation on the Forum working collaboratively with our regional partners on items of collective interest and benefit to our customers.

In addition, Tacoma Water seeks Board approval to continue serving as the financial agent for the Water Supply Forum, to approve a participating contribution in the form of Annual dues



during the term of the Agreement. We anticipate these expenditures to be under the Director's authority, but are happy to provide financial reports of these expenditures, if desired.

Proposed dues for Tacoma Water are currently included in the 2021-2022 biennial budget. For perspective, a summary of dues for the existing agreement are:

2019	\$33,300
2018	\$50,000
2017	\$50,000
2016	\$50,000
2015	\$16,668

The primary elements of the work plan for the coming year will be: Regional resiliency planning, emergency response coordination, website maintenance and updates, developing a 2022-2025 workplan; and response to public issues related to regional water supply and water utility coordination.

Recommendation

It is recommended that the Public Utility Board take the necessary approving actions.

Approved by:



Jackie Flowers
Director of Utilities

**WATER SUPPLY FORUM
MEMORANDUM OF AGREEMENT
2021-2025**

This MEMORANDUM OF AGREEMENT (“Agreement”) is made and entered into by and among the City of Seattle, Cascade Water Alliance, City of Everett, the City of Tacoma (“Tacoma”), each individually referred to as a “Party” and collectively referred to in this Agreement as the “Parties”.

RECITALS

WHEREAS, regional drinking water suppliers, purveyors and association leaders in the Puget Sound region have been meeting as the Water Supply Forum (“Forum”) since 1999, as an informal association, to coordinate and collaborate on current and future water supply and water resource items and projects of mutual interest and benefit, and this collaboration benefits residents of King, Snohomish and Pierce counties; and

WHEREAS, since 1999, the Forum has engaged in projects and actions to collectively further the members’ mutual interests on present and future drinking water issues such as, but not limited to, water supply planning, resiliency including seismic, water quality, water conservation, education and outreach; and

WHEREAS, the Forum members previously entered Funding Agreements in 2011 and 2015 to cooperatively fund activities, including consultant assistance, consistent with their mutual interests in accordance with identified budgets, and these Funding Agreements had exhibits with Rules of Conduct for Business, Action Item and Budget Plan and Schedule of Funding Shares (Dues); and

WHEREAS, the Water Supply Forum Funding Agreement (2016-2020) expires at the end of 2020 and the Forum members desire to be able to continue to engage in projects and actions to collectively further their mutual interests and to fund work plan activities consistent with their mutual interests and update the operating procedures; and

WHEREAS, the Forum wants to be an effective size while being inclusive of representatives from utilities and organizations;

NOW, THEREFORE, the Parties agree as follows:

- I. **Membership and Responsibilities.** The Forum will have the following membership categories with related responsibilities. All Forum members may appoint their own representatives and one alternate.
 - A. **Large regional water suppliers, purveyors, or associations.** There will be four members: City of Seattle, City of Everett, City of Tacoma, and the Cascade Water Alliance. Dues for these members are allocated by county as described in Section III.C.(ii). One representative of each of these members votes, can serve as Forum Chair and Vice-Chair, form the Steering Committee, and can serve on or chair topic-focused committees. An alternate, if selected, may vote in the absence of the representative.
 - B. **Representatives of large regional suppliers, purveyors, and associations in Section I.A.** Each entity listed in Section 1.A above may invite one additional representative to participate on the Forum. These representatives must be customers, members or other groups/associations affiliated with the Forum members listed in Section 1.A. These representatives do not vote or pay dues. They may participate on or chair topic-focused committees.
 - C. **Individual water utilities, other associations, and counties.** Individual utilities or associations with 10,000 or more connections or counties may become a Forum member with a \$1,000 annual fee. The representatives of this group of members may vote and may participate on or chair topic-focused committees. An alternate, if selected, may vote in the absence of the representative.
 - D. **Meeting Guests.** Other organizations, agencies and individuals that are not within member categories in Section I.A-C may attend Forum meetings. Guests do not pay dues, vote, or serve on committees. Forum member staff may also attend the meetings as guests.

II. Funding and Administration

A. Funding Administration. Tacoma shall serve as the Forum's fiscal agent, including invoicing and collecting dues, administering Forum funds and any consultant or vendor contracts in accordance with its usual procedures, paying vendor invoices, tracking expenses and related fiscal management. Tacoma will not pay interest to the Forum on any budget balances.

- i. Billing and payment. Tacoma shall bill each member annually for its respective dues. Each member shall pay Tacoma within sixty (60) days of receipt of invoice.
- ii. Taxes. Tacoma shall pay taxes or charges that may be assessed on approved work plan and budget items. The Forum's budget balance may be used for this purpose. Tacoma will discuss any unforeseen taxes and charges with the Forum Chair before making payment.
- iii. Contract management. Project managers for each consultant and vendor contract will work with Tacoma on the financial aspects of the contract management.
- iv. Annual report. Each year, Tacoma will provide the Chair an annual report showing the revenue, expenses, budget balance and contracts. The Chair may distribute the annual report to the members.

B. Budget.

- i. The Forum funds may only be used for items approved in the annual work plan and budget, or any subsequent modifications or amendments approved by the Forum.
- ii. The Forum will maintain a minimum balance of \$100,000 throughout the year. In special circumstances, the Steering Committee may recommend to the Forum if the minimum balance should be adjusted for a particular year. The Forum may approve such recommendation for a one-year period. A permanent change in the balance amount requires an amendment to this agreement.
- iii. The Forum may refund to the Parties any unspent funds not anticipated to be allocated to budget items in the foreseeable future, or, if this agreement is

terminated in accordance with Section IV.D. Refunds must be approved by the Forum and will be distributed to the Parties in proportion to the dues allocation described in Section III.C.2. Forum members not designated in Section I.A are not entitled to any such refund. Any refunds related to contributions made under the 2015-2020 agreement will be in proportion to the amount contributed by each entity during the effective date of the 2015-2020 agreement. Any Forum member that leaves or exits this Agreement before any Forum decision to approve a refund, irrevocably waives its right to any refund regardless of its prior contribution.

C. Contracting Process.

- i. If the Forum wishes to contract for services, Tacoma shall be the contracting agent. Tacoma shall follow all its applicable contracting and procurement laws and rules and serve as the contract signatory.
- ii. The Forum will identify its contracting needs and present any contract proposal to the Steering Committee. The Steering Committee must approve all scopes of work which may be presented as a summary with deliverables and estimated costs. If approved, Tacoma will procure and execute them in accordance with applicable laws and rules.
- iii. Forum members are intended to be third-party beneficiaries of any contract entered into by Tacoma on behalf of the Forum. Tacoma shall include such language in each agreement executed on behalf of the Forum.
- iv. In unusual or urgent circumstances, another public agency member within the member categories in Section I.A-C may issue a contract for the Forum with Chair and Steering Committee's concurrence in compliance with Tacoma's and that member's contracting and procurement laws and rules. Forum members may request reimbursement from Tacoma if they enter an approved contracting arrangement on behalf of the Forum.

III. Operations

- A. Chair. The Forum will have a two-year rotating Chair and a Vice-Chair. The Chair shall set meetings, send meeting notices and agendas, solicit agenda items, produce any meeting summaries, manage the budget, provide fiscal administration coordination with Tacoma, appoint topic-focused committee chairs, represent the Forum in public forums or delegate a representative and serving as Chair of the Steering Committee. The Vice-Chair serves as Chair if the Chair is unavailable. Members of the Steering Committee will nominate the Chair and Vice-Chair from the representatives of the members in Section I.A. Forum members listed in Section I.A. and I.C will vote on the Chair and Vice-Chair selection.
- B. Committees.
- i. Steering Committee. The Steering Committee develops the annual work plan and budget, determines the annual dues, and responds to other requests identified by the Chair. The Steering Committee is comprised of the representatives of the Forum members in Section 1.A.
 - ii. Topic-focused committees. The Forum will form topic-focused committees as needed to implement the annual work plan and budget. Any Forum member in Section I.A.-C. may serve on or chair a topic-focused committee. Chairs will be appointed by the Forum Chair. Staff of Forum members may also serve on committees as needed.
- C. Annual work plan, budget, and dues
- i. Work plan and budget. Before the beginning of the next calendar year, the Steering Committee will propose an annual work plan and budget with the total amount of dues to be collected. All voting members will vote on the work plan and budget. The work plan and budget may be amended during the year if approved by a vote of the Forum.
 - ii. Dues. Dues will be collected to pay for the work plan and budget. If the year-end balance exceeds \$200,000, the Steering Committee has the discretion to waive dues for the upcoming year as part of the annual work plan and budget process.

If dues are to be collected, the Steering Committee will identify all Forum members in Section I.C. who owe dues. These utilities, associations, and counties will be invoiced \$1,000 unless they opt out and become a guest. The remaining balance will be allocated to Forum members in Section I.A as follows: 25% to Everett, 25% to Tacoma, 35% to Seattle and 15% to Cascade. If the Steering Committee waives dues, Forum representatives in categories I.A and I.C may still vote.

D. Meeting protocols

- i. Items requiring a vote. Items requiring a vote include approval of the annual work plan and budget with associated dues, amendments to the work plan or budget, approval to refund dues, any formal public positions including legislative positions, selection of the Chair and Vice-Chair, or any items that obligate a member to incur a direct reimbursable cost for the benefit of the Forum.
- ii. Voting. The Forum's goal in voting is to reach unanimous agreement. If such agreement cannot be reached, members of the Steering Committee must reach unanimous agreement for a proposal to be approved.
- iii. Meeting frequency and location. The Forum will meet quarterly unless more frequent meetings are needed as determined by the Steering Committee. Topic-focused committees will meet as needed to accomplish tasks in the annual work plan. Meetings will be located as centrally as possible for all members and may be held online as needed.

E. Represented positions. The Forum may participate in public discussions and present approved Forum positions. Minority positions may be expressed. Whomever represents the Forum will present both Forum and minority positions.

- i. The Forum will coordinate any legislative communications with the Washington Water Utility Council and seek to have common positions on areas of common interest.

IV. Other provisions

- A. Ownership of work product(s). All work products generated through the authorization of the annual work plan and budget, including consultant contracts, are intended to be property shared by and between the Forum members. Based on this intent, the Forum, and Forum member, hereby irrevocably grants to each of the other Forum members a non-exclusive, royalty free, unlimited license to use any work product generated by the Forum, its employees, agents and consultants.
- B. Obligations Not Joint and Several. Each Party's liability for any obligation incurred pursuant to this Agreement shall be limited to the proportional funding share identified in the adopted annual work plan and budget. The Parties shall not be jointly or severally liable for any such liabilities or obligations. Any contract funded by the Forum shall contain a provision to this effect.
- C. Counterparts. This Agreement may be executed in counterparts.
- D. Term. The term of this Agreement shall be through December 31, 2025, unless terminated sooner by mutual agreement of the Parties. Any Party or Forum member may unilaterally terminate its participation in this Agreement upon thirty (30) days written notice. A Party or Forum member exercising its unilateral termination rights shall forfeit and waive its right to any monies paid to the Forum under this Agreement. However, in the event of mutual termination of the entire Agreement, any unexpended funds will be returned to the contributing Parties in proportion to their contributions.
- E. Amendments. The Agreement can be periodically amended as needed for the Forum to operate efficiently and effectively. Amendments that focus on the operational portions and involve no additional cost burden on its members do not need legislative approval by the Agreement's signatories. Any such amendments can be in the form of a signed letter agreement. A formal amendment of this agreement, executed by the signatories of this Agreement, is required for revisions or additions that increase the cost burden on Forum members.
- F. Dispute Resolution. The Parties agree that in the unlikely event of a dispute arising out of or pertaining to this Agreement, the Parties shall meet and discuss in good faith

in an effort to resolve the dispute. In the event that good faith discussions do not produce an agreed resolution to the dispute, any party wishing to pursue the dispute further may request non-binding mediation, which shall be attended by all Parties. The Parties shall mutually select an independent mediator. The costs of mediation shall be shared equally by each party to the mediation. Each party shall bear its own costs for participating in the mediation proceeding. If, as a result of the mediation, a voluntary settlement is reached, the Parties agree that such settlement shall be reduced to writing. In the event no settlement is reached, the Parties may pursue available remedies under applicable law. In the event of litigation or other action brought to enforce the terms of this Agreement, each party agrees to bear its own attorney's fees and costs.

- G. Entire agreement/Severability. The Agreement contains the entire agreement between the Parties. All previous and contemporaneous agreements, representations, or promises and conditions related to the subject matter of this Agreement are hereby superseded. If any terms, condition, or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable.
- H. Sole venue. The Parties agree and stipulate that in the event any litigation should occur concerning or arising out of this Agreement, the sole venue of any legal action shall be the Pierce County Superior Court of the State of Washington. If the dispute does not involve Tacoma, the venue shall be either Snohomish or King County Superior Court. The interpretation of the terms of the Agreement shall be governed by the laws of the State of Washington.
- I. Conflict of interest. No officer, employee or agent of any Party who exercises any function or responsibilities in connection with the planning and carrying out of the program to which this Agreement pertains, nor any member of the immediate family of any such officer, employee or agent as defined by Tacoma ordinance, shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance.

J. Acceptance and Effective Date. This Agreement is effective upon the latest date of execution by the City of Tacoma, the City of Seattle, the City of Everett, and Cascade Water Alliance. Forum members may accept this Agreement and become bound by its terms under Section I.C by signing a Forum Member Signature Page after the effective date of this Agreement.

CITY OF TACOMA, TACOMA PUBLIC UTILITIES
Water Division, dba Tacoma Water

Approved as to Form:

By Jackie Flowers
Director, Tacoma Public Utilities

Deputy City Attorney

Date

Finance Director

THE CITY OF SEATTLE, SEATTLE PUBLIC UTILITIES

By Mami Hara, General Manager and CEO

Date

CASCADE WATER ALLIANCE

By Ray Hoffman, CEO

Date

CITY OF EVERETT

By Cassie Franklin, Mayor

Date: _____

ATTEST:

City Clerk

APPROVED as to Form:

City Attorney

FORUM MEMBER SIGNATURE PAGE

Name of Utility or Organization: _____

Authorized Signature: _____

Name: _____

Date: _____



RESOLUTION NO. U-10825

1
2 A RESOLUTION related to Tacoma Water; authorizing execution of the Water
3 Supply Forum Funding Agreement for 2016-2020.

4 WHEREAS the City of Tacoma, Department of Public Utilities, Water
5 Division (d.b.a. "Tacoma Water") requests authorization to execute the Water
6 Supply Forum Funding Agreement for 2016-2020 ("Agreement"), which
7 includes provisions authorizing Tacoma Water to act as financial agent and
8 contracting party under the Agreement, and

9 WHEREAS the Agreement is the mechanism by which Tacoma Water,
10 Seattle, Everett, six Puget Sound area water associations, and King County
11 fund various projects and action items to further the parties' interests related to
12 present and future water issues, and

13
14 WHEREAS the parties previously entered into funding agreements to
15 cooperatively pay for various action items from 2004 through 2015, and

16 WHEREAS the current funding agreement approved by the Board
17 pursuant to resolution U-10429 will expire on December 31, 2015, and the
18 parties desire to enter into a new funding agreement through 2020 as further
19 described in the backup materials on file with the Clerk of the Board, and

20
21 WHEREAS Tacoma Water is required to pay up to \$62,500/per year
22 under the Agreement to support activities funded under the Agreement, and

23 WHEREAS Tacoma Water requests the Board delegate authority to the
24 Director of Utilities pursuant to Tacoma Municipal Code section 1.06.269, to
25 administratively amend the Agreement as needed with amendments including
26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

extension or shortening of contract terms, renewal of the Agreement, and payment of increased contract amounts up to an additional \$200,000, and

WHEREAS it is in the best interest of Tacoma Water and its customers to authorize Tacoma Water to execute the Agreement; Now, therefore, BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

Sec. 1. That Tacoma Water is authorized to execute the Water Supply Forum Funding Agreement ("Agreement") for 2016-2020 substantially in the form on file with the Clerk and as approved by the City Attorney.

Sec. 2. That the Director of Utilities is authorized to administratively approve amendments to the Agreement, including extension or shortening of contract terms, renewal of the Agreement, and payment of increased contract amounts up to an additional \$200,000.

Sec. 3 That Tacoma Water is authorized to continue as financial agent and contracting party under the Agreement.

Sec. 4. That Tacoma Water's contributions under the Agreement, up to \$62,500/per year, are approved.

Approved as to form and legality:

William Foshe
Chief Deputy City Attorney

Chauvin Jones
Clerk

[Signature]
Chair
Monique Fredwayli
Secretary

Adopted 11-18-15